

KAREN TYNAN
Attorney and Counselor at Law

August 8, 2011

Carmen A. Trutanich
City Attorney
City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

Re: July 20, 2011 letter from Staff Counsel, DIR, DOSH Legal Unit

Dear Mr. Trutanich:

This letter is offered in response to the July 20, 2011 letter authored by James D. Clark, Staff Counsel, enclosed for your reference, ("A"). The letter was written to the Los Angeles City Council regarding the March 22, 2011 report from your office authored by Kimberly Miera, Deputy City Attorney, regarding film permit requirements for adult films. I have also enclosed that original report for your reference, ("B").

Our office represents a number of production companies, talent agencies, and performers residing in both the San Francisco area and the Los Angeles area. I have been involved in defending a number of adult entertainment production companies in the arena of Cal/OSHA citations, inspections, and stakeholder meetings. In California, I am probably the most experienced and involved attorney dealing with the health and safety regulations, both present and proposed, from the adult entertainment industry perspective. As such, I would like to succinctly and in the spirit of cooperation offer you the following relevant information to the issue at hand:

1. The precipitating theory that the adult entertainment industry performers are part of a large and threatening pool of infected or contaminated individuals is completely without merit, and is frankly, offensive and unfounded. I have enclosed a recent report authored by a nationally renowned and well respected physician, ("C"). This report refutes and rebuts the claims regarding adult industry performers spreading diseases in the community. The report analyzes the statistics and methodology of the Los Angeles County Department of Public Health, and specifically, Dr. Peter Kerndt's conclusions.




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2. Aids Healthcare Foundation and Cal/OSHA are “partners” in a variety of ways, creating a conflict of interest. Mr. Clark’s analysis and opinion offered in his July 20th letter should be read with the understanding that Cal/OSHA, a state agency, has partnered with the Michael Weinstein AHF machine for a variety of adult entertainment industry attacks. Please see the enclosed five page packet of information evidencing this conflict of interest, (“D”). You’ll find that Cal/OSHA has listed AHF physicians as their expert witnesses for a hearing last year. Ms. Shilpa Sayana, who was also appointed by Cal/OSHA to a position in recent stakeholder meetings, is employed by AHF. Included in that packet is the terse response by Brian Chase, in house counsel for AHF, responding to requests for witness information. AHF is providing expert witnesses for the state in proceedings, and now Cal/OSHA is offering a legal opinion supporting AHF’s demand that the City Council create ordinances for condoms on film shoots. Some might call these facts “interesting.” I call this a flagrant conflict of interest and unprincipled.
3. The letter from Mr. Clark is the first of its kind ever in California. Cal/OSHA appears to be diluting its own authority over occupational health and safety, inviting municipalities, county governments, and any other possible governmental entity into the occupational health and safety business. The opinions in the letter are conclusory and are not supported by California case law or the legislative intent of any of the code sections cited. Cal/OSHA’s invitation for the City of Los Angeles to enter into the condom police business is landmine that no city should try to navigate.
4. There have been public stakeholder meetings, and Cal/OSHA is presently in the middle of the rule making process with regard to the adult entertainment industry. To invite the city to make regulations while the state is engaged in updating or changing regulations is simply a waste of resources.

If you have any questions, comments, or concerns, please contact me. Thank you for your attention to my comments and points.

Regards,



Karen Tynan

KT/kf